THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.22465 OF 2006

DATED 01st NOVEMBER, 2006

BETWEEN

M/s. Vengamamba Stone Crusher

… Petitioner

and

The Secretary, Industries and Commerce/M.II(1) Department,
Government of Andhra Pradesh, Secretariat, Hyderabad and others.

… Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

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ORDER:

The petitioner is proprietary concern. It was granted quarry lease over an extent of 9 hectares of land in survey No.53 of Chinasankarlapudi village, Prathipadu Mandal of East Godavari District on three different occasions. Except one, the other two leases are valid upto 2012. The petitioner completed necessary formalities and operating the quarries for road metal. The Assistant Director of Mines and Geology, the fourth respondent herein, submitted report to the third respondent informing that when survey of land in survey No.53 was conducted in connection with processing of other applications for quarry leases, it was found that the petitioner extracted 89,927 cums of road metal over and above the permitted quantity within the leased area and also outside the quarry lease area in survey No.53 of Chinasankarlapudi village. Therefore, the third respondent initiated action under Rule 26(2) of A.P.Minor Mineral Concession Rules, 1966 (the Rules, for brevity) and issued a show cause notice, dated 04.04.2006, to the petitioner to show cause as to why action should not be taken for recovery of the seigniorage fee along with penalty under Rule 26(2) of the Rules. The petitioner submitted explanation on 17.05.2006 denying the allegation that the petitioner conducted quarry operations illegally outside the lease area. The petitioner also further alleges that the same area was granted to M.Chinnaiah during 1986 to 1991, who conducted operations over an extent of Acs.10.00 for road metal and that the same area was granted to Mahankali Ravindra over an extent of Acs.2.50 cents from 1992-1997, who conducted quarry operations on the same land. After considering the explanation, third respondent requested the fourth respondent to submit remarks on the explanation submitted by the petitioner. By communication, dated 13.06.2006, the Assistant Director submitted a report stating that the total quantity of 6,100 cums of road metal, which was dispatched by the earlier leaseholders, for which transport permits were obtained, was already deducted from the quantity of 89,927 cums dispatched by the petitioner stone crusher.

The third respondent considered the explanation and the report of the fourth respondent and came to the conclusion that the petitioner

illegally extracted and removed 83,927 cums of road metal over and above the permitted quantity within the leased area and also outside the lease area. Accordingly, the third respondent directed the petitioner to pay normal seigniorage fee of Rs.37,72,215/- (@Rs.45 per cum for 83,927 cums) and also imposed penalty at ten times in a sum of Rs.3,77,22,150/-. Against the said proceedings of third respondent, dated 20.06.2006, the petitioner preferred revision petition under Rule 35-A of the Rules before the first respondent. By order, dated 29.08.2006, first respondent waived the penalty imposed by third respondent and directed the petitioner to pay the normal seigniorage fee of Rs.37,72,215/- within one month on receipt of the said order. Aggrieved by the same, the present writ petition is filed.

Learned counsel for the petitioner strenuously contends that there was no material before the third respondent to come to the conclusion that the petitioner extracted road metal over and above the permitted quantity within leased area and also outside the quarry lease area in survey No.53. Secondly, he submits that the revisional authority while observing that the entire lease area is not fit for usage of road metal, erred in directing the petitioner to pay normal seigniorage fee of Rs.37,72,215/-. **Per contra**, learned Government Pleader for Industries submits that the Assistant Director while conducting survey of the land in survey No.53 of Chinasankarlapudi village and survey No.160 of Pedasankarlapudi found that the petitioner and another lessee Sri Ch.Satyanarayana operated the quarries with irregular quarry pits within the leased area and outside the lease area in certain locations. Based on the report of the Assistant Director, action was taken under Rule 26(2) of the Rules, and the petitioner was asked to pay the normal seigniorage fee as well as penalty at ten times. He would also urge that the same being a question of fact, the writ petition would not lie.

As seen from the order passed by the third respondent, the petitioner was alleged to have committed two contraventions, namely, that she removed road metal over and above permitted quantity and that she removed the mineral from leased area as well as outside the lease area. She submitted her explanation on 17.05.2006 alleging that the area was leased out to one Chinnaiah and Mahankali Ravindra, who conducted quarry operations for fifteen years and that for quarry operations in the land, which was initially leased out to those persons, she cannot be held responsible. As seen from the order passed by the third respondent, in response to report called for, the fourth respondent submitted a report on 13.06.2006 to the effect that Chinnaiah and Ravindra obtained permits for transporting road metal measuring 4,000 cums and 2,100 cums respectively. When they only

quarried the said quantity and after expiry of lease of these two persons, if any extra mineral is removed from the land, inference can always be drawn that the petitioner alone is responsible for removing the road metal from outside the leased area. The first respondent considered this aspect of the matter and thought it fit to waive the penalty while directing the petitioner to pay the normal seigniorage fee. This only shows that the petitioner did not even produce any material that for the road metal, she removed from the leased area she paid the seigniorage fee as per the Rules.

In any view, the finding recorded against the petitioner is a question of fact and therefore, it would not be proper for this Court to interfere in the matter. The first respondent considered all aspects of the matter while disposing of the revision petition filed by the petitioner. The same does not call for any interference. Therefore, the writ petition is dismissed. No costs.

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(V.V.S.RAO,J)

01.11.2006.
pln